

### **REMARKS**

Applicant submits that this Amendment After Final Rejection places this application in condition for allowance by amending claims in manners that are believed to render all pending claims allowable over the cited art and/or at least place this application in better form for appeal. This Amendment is necessary to clarify certain claim limitations and was not earlier presented because Applicant believed that the prior response(s) placed this application in condition for allowance, for at least the reasons discussed in those responses. Accordingly, entry of the present Amendment, as an earnest attempt to advance prosecution and/or to reduce the number of issues, is requested under 37 C.F.R. §1.116.

In the event that the Office declines to enter the present Amendment, and (i) any portion of the present Amendment would place some of the claims in better form for appeal if a separate paper were filed containing only such amendments or (ii) any proposed amendment to any claim would render that claim allowable, Applicant respectfully requests that the Office inform Applicant of the same pursuant to MPEP §714.13.

By this amendment, claims 1, 4-7, 15, 18, 20 and 27 have been amended. Claim 2 has been canceled (claim 3 was previously canceled). Support for the amendments to the claims can be found in the specification and drawings as originally filed. Claims 1 and 4-34 remain in the application. This application has been carefully considered in connection with the Examiner's Action. Reconsideration, withdrawal of the final action, and allowance of the application, as amended, is requested.

#### **Allowable Subject Matter**

Claims 7-9 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Allowability of claims 7-9 is noted with appreciation. A presented herein, claim 7 has been rewritten in independent form,

including all of the limitations of the base (claim 1) and any intervening claims (claim 2). Accordingly, claim 7 is in prima facie condition for allowance. Claims 8 and 9 depend from and add further limitations to allowable independent claim 7, and therefore are allowable as well.

### **Rejection under 35 U.S.C. §103**

Claims 1, 11, 14, 18, 20-28, and 32 were rejected under 35 U.S.C. §103(a) as being unpatentable over Yamanaka et al. (US Patent Application Publication 2001/0016834; hereafter **Yamanaka**) in view of Brown et al (US Pub No. 2003/0046548; hereafter **Brown**) further in view of Bayer (US 20070101139; hereafter **Bayer**) further in view of Asano (US 20020154779; hereafter **Asano**). With respect to claim 1, applicant respectfully traverses this rejection on the grounds that the **Yamanaka, Brown, Bayer** and **Asano** references are defective in establishing a prima facie case of obviousness.

Independent claim 1, as now presented, more clearly recites, inter alia, the specific feature limitation of "the storable electronic content and the electronic application ... stored on a portable wireless device ... wherein the storable electronic content contains a plurality of electronic content portions and wherein *corresponding control commands* are required to be *separately* provided *each time* the electronic application renders one of the plurality of electronic content portions, wherein the remote service uses one of (a) a user identification (User ID), (b) the removable storage medium ID, and (c) both the User ID and the removable storage medium ID, as an identifier to customize, for the user, particular portions of the electronic content for playback, and ... responsive to the user selecting and playing the electronic advertising content, the *control commands* enable the electronic application to *render* the particular portions of electronic content ... accessible to the user for playback; wherein the *control commands* are separately transmitted each time the electronic application *renders* the

particular portions of electronic content accessible to the user, ... further comprising maintaining a count of a number of times that the control commands for rendering the particular portions of electronic content accessible to the user are transmitted from the remote service to the user" (emphasis added). Support for the amendments to claim 1 (as well as amendments to claims 18 and 20) can be found in the specification at least in the title, abstract, and on page 6, lines 29-32; page 7, line 16; page 8, lines 3-7; and previously presented claims 2 and 7).

Applicant submits that neither Yamanaka, Brown, Bayer nor Asano discloses at least the aforementioned specific feature limitation of independent claim 1. In particular, claim 1 has been amended with feature limitations similar to those indicated as being allowable with reference to claim 7. Accordingly, favorable reconsideration and withdrawal of the rejection of independent claim 1 under 35 U.S.C. §103(a) are respectfully requested.

Claims 11 and 14 depend from and further limit allowable independent claim 1 and therefore are allowable as well. Withdrawal of the rejection is respectfully requested.

Claim 18 has been amended in a manner similar to the amendments to claim 1. Accordingly, for similar reasons as stated with respect to overcoming the rejection of claim 1, claim 18 is believed allowable and an early formal notice thereof is requested. The 35 U.S.C. §103(a) rejection thereof has now been overcome.

Claim 20 has been amended in a manner similar to the amendments to claim 1. Accordingly, for similar reasons as stated with respect to overcoming the rejection of claim 1, claim 20 is believed allowable and an early formal notice thereof is requested. The 35 U.S.C. §103(a) rejection thereof has now been overcome. Claims 21-28 and 32 depend from and further limit allowable independent claim 20 and therefore are allowable as well. Withdrawal of the rejection is respectfully requested.

Claims 2 and 15-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over **Yamanaka, Brown, Bayer and Asano** in view of Wu (US Pat No. 6874018; hereafter **Wu**). Applicant respectfully traverses this rejection for at least the following reason. With respect to claim 2, the same has been canceled herein, thus rendering the rejection thereof now moot. With respect to claims 15-17, they depend from and further limit allowable independent claim 1 and therefore are allowable as well. Withdrawal of the rejection is requested.

Claims 4 and 29-31 were rejected under 35 U.S.C. §103(a) as being unpatentable over **Yamanaka, Brown, Bayer, Asano and Wu** further in view of Lamkin et al. (US Patent Application Publication 2004/0220926; hereafter **Lamkin**). Applicant respectfully traverses this rejection for at least the following reason. Claim 4 depends from and further limits allowable independent claim 1 and therefore is allowable as well. Claims 29-31 depend from and further limit allowable independent claim 20 and therefore are allowable as well. Withdrawal of the rejection is respectfully requested.

Claims 10 and 34 were rejected under 35 U.S.C. §103(a) as being unpatentable over **Yamanaka, Brown, Bayer and Asano** further in view of Lamkin et al. (US Patent Application Publication 2004/0220926; hereafter **Lamkin**). Applicant respectfully traverses this rejection for at least the following reason. Claim 10 depends from and further limits allowable independent claim 1 and therefore is allowable as well. Claim 34 depends from and further limits allowable independent claim 20 and therefore is allowable as well. Withdrawal of the rejection is respectfully requested.

Claim 6 was rejected under 35 U.S.C. §103(a) as being unpatentable over **Yamanaka, Brown, Bayer, Asano and Wu** further in view of Lamkin et al. (US Patent Application Publication 2004/0220926; hereafter **Lamkin**). Applicant respectfully

traverses this rejection for at least the following reason. Claim 6 depends from and further limits allowable independent claim 1 and therefore is allowable as well. Withdrawal of the rejection is respectfully requested.

Claims 12-13 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over **Yamanaka, Brown, Bayer** and **Asano** further in view of Donian et al. (US Patent Application Publication 2004/0003398; hereafter **Donian**). Applicant respectfully traverses this rejection for at least the following reason. Claims 12-13 depend from and further limit allowable independent claim 1 and therefore are allowable as well. Claim 19 depends from and further limits allowable independent claim 18 and therefore is allowable as well. Withdrawal of the rejection is respectfully requested.

Claims 5 and 33 were rejected under 35 U.S.C. §103(a) as being unpatentable over **Yamanaka, Brown, Bayer, Asano, Wu** in view of Ochiyama et al. (US Patent Application Publication 2004/0031377; hereafter **Ochiyama**). Applicant respectfully traverses this rejection for at least the following reason. Claim 5 depends from and further limits allowable independent claim 1 and therefore is allowable as well. Claim 33 depends from and further limits allowable independent claim 20 and therefore is allowable as well. Withdrawal of the rejection is respectfully requested.

### **Conclusion**

Except as indicated herein, the claims were not amended in order to address issues of patentability and Applicants respectfully reserve all rights they may have under the Doctrine of Equivalents. Applicants furthermore reserve their right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or a continuation application. In addition, the Office Action contains a number of statements characterizing the claims, the specification, and the prior art. Regardless of

whether such statements are addressed by Applicant, Applicant refuses to subscribe to any of these statements, unless expressly indicated by Applicant.

The matters identified in the Office Action of February 15, 2011 are now believed resolved. Accordingly, the application is believed to be in proper condition for allowance. The amendments herein are fully supported by the original specification and drawings; therefore, no new matter is introduced. Withdrawal of the final action and issuance of an early formal notice of allowance of claims 1 and 4-34 is requested.

Respectfully submitted,

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